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Attorneys for Defendant, LONGS DRUG
 STORES OF CALIFORNIA, INC. (erroneously
 sued as CVS PHARMACY, INC. and CVS
 HEALTH)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION

GINGER SCHULER and JIM SCHULER,

Plaintiffs,

v.

CVS PHARMACY, INC.; CVS HEALTH,
 BRYAN JANN and DOES 1 to 50,

Defendants.

Case No.

**1. NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. §§ 1332 AND 1441(b)
(DIVERSITY)**

**2. DEMAND FOR JURY TRIAL
[FRCP 38]**

Complaint filed: April 21, 2017

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332 and 1441 Defendant
 LONGS DRUG STORES OF CALIFORNIA, LLC. (erroneously served as CVS PHARMACY,
 INC. and CVS HEALTH) (hereinafter “defendant”), by and through its attorneys, Manning &
 Kass, Ellrod, Ramirez, Trester LLP, hereby removes to this Court the above-captioned state court
 action from the Superior Court of the State of California in and for the County of Alameda, in
 which it is currently pending, and state as set forth below.

///

JURISDICTION

1. This action is a civil action of which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332, and is one that may be removed to this Court by defendant pursuant to the provisions of 28 U.S.C. § 1441(b), in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000 dollars, exclusive of interest and costs.

BASIS FOR REMOVAL TO FEDERAL COURT

2. On April 21, 2017, Plaintiffs GINGER SCHULER and JIM SCHULER ("plaintiffs") commenced an action in the Superior Court of the State of California in and for the County of Alameda, entitled *Ginger Schuler and Jim Schuler v. CVS Pharmacy, Inc., et al.*, Case Number RG17857544. A true and correct copy of the Complaint is attached hereto as Exhibit A.

3. Plaintiffs' Complaint asserts three causes of action against defendant (1) Negligence; (2) Willful Failure to Warn; and (3) Premises Liability—Dangerous Condition of Property for injuries they allegedly sustained on May 13, 2016, while they were walking into a CVS store in Alameda, California. (Ex. A: Complaint, p. 1.) Plaintiff Ginger Schuler alleges she tripped on a pallet upon which flower pots were stacked, causing her numerous injuries including to the head and shoulder. Plaintiff Jim Schuler alleges that he witnessed the incident and suffers from serious emotional distress inflicted by defendants' negligence. (*Id.*).

4. Plaintiff dismissed Defendant Bryan Jann, who is a citizen from the State of California, from this litigation on August 15, 2017. (Ex. B: Dismissal of B. Jann).

5. Based on information and belief, Defendant is informed and believes that Plaintiffs, were at the time of filing this action, and still are, citizens of the State of California.

6. Defendant Longs Drug Stores of California, LLC was, at the time of the filing of this action, and still is, a citizen of the State of Rhode Island, incorporated under the laws of the State of Rhode Island, with its principal place of business in Woonsocket, Rhode Island.

7. The amount in controversy exceeds \$75,000, exclusive of interests and costs, as Plaintiffs' Complaint seeks general damages, special damages, future medical and related expenses, past and future loss of earnings and earning capacity, interest, and costs of suit. (Ex. A: Complaint, p. 3).

1 8. Defendant is the only named defendant in this action.

2 9. This Notice of Removal is being filed with this Court within 30 days after August
3 15, 2017, when defendant Bryan Jan was dismissed from this case.

4 10. By removing this matter to this Court, defendant does not waive any available
5 defenses, nor does it admit any allegations made in the Complaint.

6 11. A copy of this Notice of Removal is being served on plaintiffs' attorney and is
7 being filed with the Clerk of the Superior Court of the State of California in and for the County of
8 Alameda.

9 12. This Notice of Removal is signed pursuant to Federal Rule of Civil Procedure 11,
10 in accordance with 28 U.S.C. § 1446(a).

11 13. WHEREFORE, Defendant gives notice that the above action is hereby removed in
12 its entirety to this Court, and respectfully requests that this action be placed on the docket of this
13 Court for further proceedings as though it had originally been instituted in this Court.

14 **INTRADISTRICT ASSIGNMENT**

15 14. Pursuant to Civil L.R. 3-2(c), this civil action should be assigned to the San
16 Francisco/Oakland Division of this Court because a substantial part of the events or omissions
17 which give rise to plaintiffs' claims occurred at the CVS Store located on Santa Clara Avenue in
18 Alameda, California.

19 **DEMAND FOR JURY TRIAL**

20 15. Pursuant to Federal Rule of Civil Procedure 38(b)(1) and Civil L.R. 3-6, Defendant
21 LONGS DRUG STORES OF CALIFORNIA, LLC. (erroneously served as CVS PHARMACY,
22 INC. and CVS HEALTH) hereby demands a trial by jury of this action as provided for in Federal
23 Rule of Civil Procedure 38(b).

1 DATED: September 14, 2017

MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP

By: _____

David Roth
Melissa Palozola
Attorneys for Defendant, LONGS DRUG
STORES OF CALIFORNIA, LLC. (erroneously
sued as CVS PHARMACY, INC. and CVS
HEALTH)

MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP
ATTORNEYS AT LAW

Exhibit A

SUM-100

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

CVS Pharmacy, Inc., CVS Health, Bryan Jann and Does 1 to 50

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Ginger Schuler and Jim Schuler

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)RECORDED
FILED
ALAMEDA COUNTY

APR 21 2017

CLERK OF THE SUPERIOR COURT
By: D. OLIVER, Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito llene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA
1225 Fallon Street, Oakland, CA 94612

CASE NUMBER:
(Número del Caso):

17-1857542

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Joseph W. Campbell (Bar #53263)

1301 Marina Village Pkwy., Ste. 330, Alameda, CA 94501

Fax No.: (510) 865-5410

Phone No.: (510) 865-5409

DATE:

APR 21 2017

Chad Finko

Clerk, by

(Secretario)

D. OLIVER

, Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.

2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☐ other (specify):

4. ☐ by personal delivery on (date):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Joseph W. Campbell (State Bar # 53263) 1301 Marina Village Parkway, Suite 330 Alameda, CA 94501 TELEPHONE NO.: (510) 865-5409 FAX NO.: (510) 865-5410 ATTORNEY FOR (Name): Ginger Schuler and Jim Schuler, Plaintiffs		FOR COURT USE ONLY ENDORSED FILED ALAMEDA COUNTY APR 21 2017 CLERK OF THE SUPERIOR COURT By: D. OLIVER, Deputy CASE NUMBER: <u>1785544</u> JUDGE: DEPT:
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: CITY AND ZIP CODE: Oakland 94612 BRANCH NAME:		
CASE NAME: Schuler v. CVS		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input checked="" type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): ONE (1)
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: April 20, 2017

Joseph W. Campbell

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

PLD-PI-001

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Joseph W. Campbell (State Bar # 53263) Law Offices of Joseph W. Campbell 1301 Marina Village Pkwy., Ste. 330 Alameda, CA 94501 TELEPHONE NO: (510) 865-5409 FAX NO. (Optional): (510) 865-5410 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Ginger Schuler and Jim Schuler, Plaintiffs	FOR COURT USE ONLY FILED ALAMEDA COUNTY APR 21 2017 CLERK OF SUPERIOR COURT By: G. OLIVER, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: CITY AND ZIP CODE: Oakland 94612 BRANCH NAME:	
PLAINTIFF: Ginger Schuler and Jim Schuler DEFENDANT: CVS Pharmacy, Inc., CVS Health, Bryan Jann and <input checked="" type="checkbox"/> DOES 1 TO 50	
COMPLAINT—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input type="checkbox"/> MOTOR VEHICLE <input checked="" type="checkbox"/> OTHER (specify): PREMISES LIABILITY <input type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Other Damages (specify):	
Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited	CASE NUMBER: RL-85-541

1. Plaintiff (name or names): Ginger Schuler and Jim Schuler
alleges causes of action against defendant (name or names): CVS Pharmacy, Inc., CVS Health, Bryan Jann and Does 1 to 50
2. This pleading, including attachments and exhibits, consists of the following number of pages: 4
3. Each plaintiff named above is a competent adult
 - a. ☐ except plaintiff (name):
 - (1) ☐ a corporation qualified to do business in California
 - (2) ☐ an unincorporated entity (describe):
 - (3) ☐ a public entity (describe):
 - (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
 - (5) ☐ other (specify):
 - b. ☐ except plaintiff (name):
 - (1) ☐ a corporation qualified to do business in California
 - (2) ☐ an unincorporated entity (describe):
 - (3) ☐ a public entity (describe):
 - (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
 - (5) ☐ other (specify):

☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

BY FAX

PLD-PI-001

SHORT TITLE: Schuler v. CVS	CASE NUMBER:
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4. ☐ Plaintiff (name):
is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.
5. Each defendant named above is a natural person
- a. ☒ except defendant (name): CVS Pharmacy, Inc.
 (1) ☐ a business organization, form unknown
 (2) ☒ a corporation
 (3) ☐ an unincorporated entity (describe):

 (4) ☐ a public entity (describe):
 (5) ☐ other (specify):
- b. ☒ except defendant (name): CVS Health
 (1) ☒ a business organization, form unknown
 (2) ☐ a corporation
 (3) ☐ an unincorporated entity (describe):

 (4) ☐ a public entity (describe):
 (5) ☐ other (specify):
- c. ☐ except defendant (name):
 (1) ☐ a business organization, form unknown
 (2) ☐ a corporation
 (3) ☐ an unincorporated entity (describe):

 (4) ☐ a public entity (describe):
 (5) ☐ other (specify):
- d. ☐ except defendant (name):
 (1) ☐ a business organization, form unknown
 (2) ☐ a corporation
 (3) ☐ an unincorporated entity (describe):

 (4) ☐ a public entity (describe):
 (5) ☐ other (specify):
- ☐ Information about additional defendants who are not natural persons is contained in Attachment 5.
6. The true names of defendants sued as Does are unknown to plaintiff.
- a. ☒ Doe defendants (specify Doe numbers): 1 to 50 were the agents or employees of other named defendants and acted within the scope of that agency or employment.
- b. ☒ Doe defendants (specify Doe numbers): 26 to 50 are persons whose capacities are unknown to plaintiff.
7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):
8. This court is the proper court because
- a. ☐ at least one defendant now resides in its jurisdictional area.
- b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
- c. ☒ injury to person or damage to personal property occurred in its jurisdictional area.
- d. ☐ other (specify):
9. ☐ Plaintiff is required to comply with a claims statute, and
- a. ☐ has complied with applicable claims statutes, or
- b. ☐ is excused from complying because (specify):

PLD-PI-001

SHORT TITLE: Schuler v. CVS	CASE NUMBER:
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10. The following causes of action are attached and the statements above apply to each (*each complaint must have one or more causes of action attached*):

- a. ☐ Motor Vehicle
- b. ☐ General Negligence
- c. ☐ Intentional Tort
- d. ☐ Products Liability
- e. ☒ Premises Liability
- f. ☐ Other (*specify*):

11. Plaintiff ~~has suffered~~^{S. xxxxxxxx} have suffered

- a. ☒ wage loss
- b. ☐ loss of use of property
- c. ☒ hospital and medical expenses
- d. ☒ general damage
- e. ☐ property damage
- f. ☒ loss of earning capacity
- g. ☒ other damage (*specify*):

Plaintiff Jim Schuler is the husband of Ginger Schuler. He suffered serious emotional distress and injury when he contemporaneously observed the injuries to his wife described herein caused by the negligence of the defendants.

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are
- a. ☐ listed in Attachment 12.
 - b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

Plaintiffs demand a trial by jury.

14. Plaintiff ~~prays~~^{/s} for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages
- (2) ☐ punitive damages

The amount of damages is (*in cases for personal injury or wrongful death, you must check (1)*):

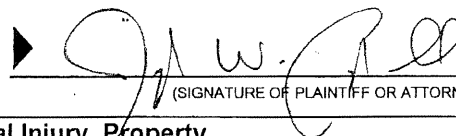
- (1) ☒ according to proof
- (2) ☐ in the amount of: \$

15. ☐ The paragraphs of this complaint alleged on information and belief are as follows (*specify paragraph numbers*):

Date: April 20, 2017

Joseph W. Campbell

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

PLD-PI-001(4)

SHORT TITLE:

Schuler v. CVS

CASE NUMBER:

FIRST
(number)**CAUSE OF ACTION—Premises Liability**Page 4ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

Prem.L-1. Plaintiff ^{/s} (name): Ginger Schuler and Jim Schuleralleges the acts of defendants were the legal (proximate) cause of damages to plaintiff. ^S

On (date): May 13, 2016 plaintiff was injured on the following premises in the following

fashion (description of premises and circumstances of injury):

Plaintiff Ginger Schuler, accompanied by her husband Jim Schuler, tripped on a portion of a pallet upon which flower pots were stacked outside a CVS store on Santa Clara Ave. in Alameda, CA. She fell into the window and door frame of the store causing numerous injuries, including to the head and shoulder. Jim Schuler witnessed the accident and suffered serious emotional distress inflicted by defendants' negligence.

Prem.L-2. ☒ **Count One—Negligence** The defendants who negligently owned, maintained, managed and operated the described premises were (names): CVS Pharmacy, Inc., CVS Health, Bryan Jann and

☒ Does 1 to 50

Prem.L-3. ☒ **Count Two—Willful Failure to Warn** [Civil Code section 846] The defendant owners who ~~willfully~~ negligently ~~failed to guard or warn against a dangerous condition, use, structure, or activity were~~ (names): CVS Pharmacy, Inc., CVS Health and

☒ Does 1 to 50

Prem.L-4. ☒ **Count Three—Dangerous Condition of Public Property** The defendants who owned ~~public~~ property on which a dangerous condition existed were (names): CVS Pharmacy, Inc., CVS Health and

☒ Does 1 to 50

- a. ☒ The defendant ~~public~~ entity had ☒ actual ☒ constructive notice of the existence of the dangerous condition in sufficient time prior to the injury to have corrected it.
- b. ☒ The condition was created by employees of the defendant ~~public entity~~ entities

Prem.L-5. a. ☒ **Allegations about Other Defendants** The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (names): CVS Pharmacy, Inc., CVS Health, Bryan Jann and

☒ Does 1 to 50

- b. ☒ The defendants who are liable to plaintiffs for other reasons and the reasons for their liability are ☐ described in attachment Prem.L-5.b ☒ as follows (names): Defendants Bryan Jann and Does 1 to 10 were at all times the managers of the CVS Store and residents of California. They were responsible for ordering displays of merchandise, including the unsafe stacking of flower pots on extended pallets outside the store.

Page 1 of 1



Superior Court of California, County of Alameda Alternative Dispute Resolution (ADR) Information Packet

The person who files a civil lawsuit (plaintiff) must include the ADR Information Packet with the complaint when serving the defendant. Cross complainants must serve the ADR Information Packet on any new parties named to the action.

The Court *strongly encourages* the parties to use some form of ADR before proceeding to trial. You may choose ADR by:

- Indicating your preference on Case Management Form CM-110;
- Filing the Stipulation to ADR and Delay Initial Case Management Conference for 90 Days (a local form included with the information packet); or
- Agree to ADR at your Initial Case Management Conference.

QUESTIONS? Call (510) 891-6055. Email adrprogram@alameda.courts.ca.gov
Or visit the court's website at <http://www.alameda.courts.ca.gov/adr>

What Are The Advantages Of Using ADR?

- *Faster* – Litigation can take years to complete but ADR usually takes weeks or months.
- *Cheaper* – Parties can save on attorneys' fees and litigation costs.
- *More control and flexibility* – Parties choose the ADR process appropriate for their case.
- *Cooperative and less stressful* – In mediation, parties cooperate to find a mutually agreeable resolution.
- *Preserve Relationships* – A mediator can help you effectively communicate your interests and point of view to the other side. This is an important benefit when you want to preserve a relationship.

What Is The Disadvantage Of Using ADR?

- *You may go to court anyway* – If you cannot resolve your dispute using ADR, you may still have to spend time and money resolving your lawsuit through the courts.

What ADR Options Are Available?

- *Mediation* – A neutral person (mediator) helps the parties communicate, clarify facts, identify legal issues, explore settlement options, and agree on a solution that is acceptable to all sides.
 - **Court Mediation Program:** Mediators do not charge fees for the first two hours of mediation. If parties need more time, they must pay the mediator's regular fees.

Some mediators ask for a deposit before mediation starts which is subject to a refund for unused time.

- **Private Mediation:** This is mediation where the parties pay the mediator's regular fees and may choose a mediator outside the court's panel.
- **Arbitration** – A neutral person (arbitrator) hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial and the rules of evidence are often relaxed. Arbitration is effective when the parties want someone other than themselves to decide the outcome.
- **Judicial Arbitration Program (non-binding):** The judge can refer a case or the parties can agree to use judicial arbitration. The parties select an arbitrator from a list provided by the court. If the parties cannot agree on an arbitrator, one will be assigned by the court. There is no fee for the arbitrator. The arbitrator must send the decision (award of the arbitrator) to the court. The parties have the right to reject the award and proceed to trial.
- **Private Arbitration (binding and non-binding)** occurs when parties involved in a dispute either agree or are contractually obligated. This option takes place outside of the courts and is normally binding meaning the arbitrator's decision is final.

Mediation Service Programs In Alameda County

Low cost mediation services are available through non-profit community organizations. Trained volunteer mediators provide these services. Contact the following organizations for more information:

SEEDS Community Resolution Center

2530 San Pablo Avenue, Suite A, Berkeley, CA 94702-1612

Telephone: (510) 548-2377 Website: www.seedscrc.org

Their mission is to provide mediation, facilitation, training and education programs in our diverse communities – Services that Encourage Effective Dialogue and Solution-making.

Center for Community Dispute Settlement

291 McLeod Street, Livermore, CA 94550

Telephone: (925) 373-1035 Website: www.trivalleymediation.com

CCDS provides services in the Tri-Valley area for all of Alameda County.

For Victim/Offender Restorative Justice Services

Catholic Charities of the East Bay: Oakland

433 Jefferson Street, Oakland, CA 94607

Telephone: (510) 768-3100 Website: www.cceb.org

Mediation sessions involve the youth, victim, and family members work toward a mutually agreeable restitution agreement.

ALA ADR-001

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)	FOR COURT USE ONLY
TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	
SUPERIOR COURT OF CALIFORNIA, ALAMEDA COUNTY STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	
STIPULATION TO ATTEND ALTERNATIVE DISPUTE RESOLUTION (ADR) AND DELAY INITIAL CASE MANAGEMENT CONFERENCE FOR 90 DAYS	CASE NUMBER: _____

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

This stipulation is effective when:

- All parties have signed and filed this stipulation with the Case Management Conference Statement at least 15 days before the initial case management conference.
- A copy of this stipulation has been received by the ADR Program Administrator, 1225 Fallon Street, Oakland, CA 94612.

1. Date complaint filed: _____. An Initial Case Management Conference is scheduled for:

Date: _____ Time: _____ Department: _____

2. Counsel and all parties certify they have met and conferred and have selected the following ADR process (check one):

- ☐ Court mediation ☐ Judicial arbitration
☐ Private mediation ☐ Private arbitration

3. All parties agree to complete ADR within 90 days and certify that:

- a. No party to the case has requested a complex civil litigation determination hearing;
- b. All parties have been served and intend to submit to the jurisdiction of the court;
- c. All parties have agreed to a specific plan for sufficient discovery to make the ADR process meaningful;
- d. Copies of this stipulation and self-addressed stamped envelopes are provided for returning endorsed filed stamped copies to counsel and all parties;
- e. Case management statements are submitted with this stipulation;
- f. All parties will attend ADR conferences; and,
- g. The court will not allow more than 90 days to complete ADR.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

 (TYPE OR PRINT NAME)

 (SIGNATURE OF PLAINTIFF)

Date: _____

 (TYPE OR PRINT NAME)

 (SIGNATURE OF ATTORNEY FOR PLAINTIFF)

ALA ADR-001

PLAINTIFF/PETITIONER:

CASE NUMBER.:

DEFENDANT/RESPONDENT:

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF DEFENDANT)

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF ATTORNEY FOR DEFENDANT)

Exhibit B

CIV-110

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Joseph W. Campbell (SBN 53263) 1301 Marina Village Pkwy., Suite 330, Alameda, CA 94501 TELEPHONE NO.: 510-865-5409 FAX NO. (Optional): 510-865-5410 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Ginger Schuler and Jim Schuler, Plaintiffs		FOR COURT USE ONLY ENDORSED FILED ALAMEDA COUNTY AUG 15 2017 CLERK OF THE SUPERIOR COURT By Lenette Duffin, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: CITY AND ZIP CODE: Oakland 94612 BRANCH NAME:		
PLAINTIFF/PETITIONER: Ginger Schuler and Jim Schuler DEFENDANT/RESPONDENT: CVS Pharmacy, Inc., et al.		
REQUEST FOR DISMISSAL		
		CASE NUMBER: RG17857544
A conformed copy will not be returned by the clerk unless a method of return is provided with the document.		
This form may not be used for dismissal of a derivative action or a class action or of any party or cause of action in a class action. (Cal. Rules of Court, rules 3.760 and 3.770.)		

1. TO THE CLERK: Please dismiss this action as follows:

- a. (1) ☐ With prejudice (2) ☒ Without prejudice
- b. (1) ☒ Complaint (2) ☐ Petition
- (3) ☐ Cross-complaint filed by (name): on (date):
- (4) ☐ Cross-complaint filed by (name): on (date):
- (5) ☐ Entire action of all parties and all causes of action
- (6) ☒ Other (specify):* AS TO DEFENDANT BRYAN JANN ONLY, with each party to bear its own costs

2. (Complete in all cases except family law cases.)

The court ☐ did ☒ did not waive court fees and costs for a party in this case. (This information may be obtained from the clerk. If court fees and costs were waived, the declaration on the back of this form must be completed.)

Date: August 14, 2017

Joseph W. Campbell

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

*If dismissal requested is of specified parties only or of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

Attorney or party without attorney for:

- ☒ Plaintiff/Petitioner ☐ Defendant/Respondent
- ☐ Cross-Complainant

3. TO THE CLERK: Consent to the above dismissal is hereby given.**

Date:

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

(SIGNATURE)

** If a cross-complaint - or Response (Family Law) seeking affirmative relief - is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (i) or (j).

Attorney or party without attorney for:

- ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
- ☐ Cross-Complainant

(To be completed by clerk)

4. ☐ Dismissal entered as requested on (date):5. ☒ Dismissal entered on (date):

AUG 15 2017 to only (name):

6. ☐ Dismissal not entered as requested for the following reasons (specify):7. a. ☐ Attorney or party without attorney notified on (date):b. ☐ Attorney or party without attorney not notified. Filing party failed to provide

☐ a copy to be conformed ☐ means to return conformed copy

Date:

AUG 15 2017

Chad Finkler, by _____, Deputy

CIV-110

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Joseph W. Campbell (SBN 53263) 1301 Marina Village Pkwy., Suite 330, Alameda, CA 94501 TELEPHONE NO.: 510-865-5409 FAX NO. (Optional): 510-865-5410 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Ginger Schuler and Jim Schuler, Plaintiffs		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: CITY AND ZIP CODE: Oakland 94612 BRANCH NAME:		
PLAINTIFF/PETITIONER: Ginger Schuler and Jim Schuler DEFENDANT/RESPONDENT: CVS Pharmacy, Inc., et al.		
REQUEST FOR DISMISSAL		CASE NUMBER: RG17857544
A conformed copy will not be returned by the clerk unless a method of return is provided with the document.		
This form may not be used for dismissal of a derivative action or a class action or of any party or cause of action in a class action. (Cal. Rules of Court, rules 3.760 and 3.770.)		

1. TO THE CLERK: Please **dismiss** this action as follows:a. (1) ☐ With prejudice (2) ☒ Without prejudiceb. (1) ☒ Complaint (2) ☐ Petition(3) ☐ Cross-complaint filed by (name):

on (date):

(4) ☐ Cross-complaint filed by (name):

on (date):

(5) ☐ Entire action of all parties and all causes of action(6) ☒ Other (specify):* AS TO DEFENDANT BRYAN JANN ONLY, with each party to bear its own costs

2. (Complete in all cases except family law cases.)

The court ☐ did ☒ did not waive court fees and costs for a party in this case. (This information may be obtained from the clerk. If court fees and costs were waived, the declaration on the back of this form must be completed.)

Date: August 14, 2017

Joseph W. Campbell

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

*If dismissal requested is of specified parties only of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

Attorney or party without attorney for:

☒ Plaintiff/Petitioner☐ Defendant/Respondent☐ Cross-Complainant

3. TO THE CLERK: Consent to the above dismissal is hereby given.**

Date:

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

(SIGNATURE)

** If a cross-complaint – or Response (Family Law) seeking affirmative relief – is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (i) or (j).

Attorney or party without attorney for:

☐ Plaintiff/Petitioner☐ Defendant/Respondent☐ Cross-Complainant

(To be completed by clerk)

4. ☐ Dismissal entered as requested on (date):5. ☐ Dismissal entered on (date):

as to only (name):

6. ☐ Dismissal **not** entered as requested for the following reasons (specify):7. a. ☐ Attorney or party without attorney notified on (date):b. ☐ Attorney or party without attorney not notified. Filing party failed to provide☐ a copy to be conformed ☐ means to return conformed copy

Date:

Clerk, by _____, Deputy

CIV-110

PLAINTIFF/PETITIONER: Ginger Schuler and Jim Schuler
 DEFENDANT/RESPONDENT: CVS Pharmacy, Inc., et al.

CASE NUMBER:
 RG17857544

COURT'S RECOVERY OF WAIVED COURT FEES AND COSTS

If a party whose court fees and costs were initially waived has recovered or will recover \$10,000 or more in value by way of settlement, compromise, arbitration award, mediation settlement, or other means, the court has a statutory lien on that recovery. The court may refuse to dismiss the case until the lien is satisfied. (Gov. Code, § 68637.)

Declaration Concerning Waived Court Fees

1. The court waived court fees and costs in this action for *(name)*:
2. The person named in item 1 is *(check one below)*:
 - a. ☐ not recovering anything of value by this action.
 - b. ☐ recovering less than \$10,000 in value by this action.
 - c. ☐ recovering \$10,000 or more in value by this action. *(If item 2c is checked, item 3 must be completed.)*
3. ☐ All court fees and court costs that were waived in this action have been paid to the court *(check one)*: ☐ Yes ☐ No

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

 (TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY MAKING DECLARATION)

 (SIGNATURE)